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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Docket # 232

~~1594-48~~
MM 92-245

OCT 4 2 1994

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IN REPLY REFER TO:
CN 9404263

BY

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The Honorable Greg Laughlin
U.S. House of Representatives
236 Cannon House Office Building
Washington, DC 20515-4314

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Dear Representative Laughlin:

This is in response to your inquiry on behalf of a constituent, Mr. Mark Rutherford, Vice President/Project Manager of CVTV, Inc. Mr. Rutherford is concerned that DirecTV, operator of a direct broadcast satellite (DBS) facility, cannot obtain rights to Time Warner and Viacom programming, because such programming is subject to exclusive distribution rights of another DBS distributor, United States Satellite Broadcasting, Inc.

Mr. Rutherford also expresses his support for the position of the NRTC concerning the Federal Communications Commission's interpretation of Section 19 of the Cable Television Consumer Protection and Competition Act of 1992. NRTC has requested that the Commission reexamine the legality of exclusive contracts between vertically integrated cable programmers and DBS providers in areas unserved by cable operators. NRTC has asked that the Commission determine that such contracts are prohibited.

NRTC's petition for reconsideration of the Commission's program access rulemaking proceeding is currently pending. As such, any discussion by Commission personnel concerning this issue outside the context of the rulemaking would be inappropriate. However, you may be assured that the Commission will take into account each of the arguments raised by NRTC and the other parties to the rulemaking concerning this issue to arrive at a reasoned decision on reconsideration.

I trust this information is responsive to your inquiry.

Sincerely,



Meredith J. Jones
Chief, Cable Services Bureau

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GREG LAUGHLIN

14TH DISTRICT, TEXAS

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Congress of the United States
House of Representatives
Washington, DC 20515-4314

August 29, 1994

WASHINGTON OFFICE
235 CANNON BLDG
WASHINGTON, DC 20515-4314
(202) 225-2831

DISTRICT OFFICES
312 SOUTH MAIN STREET
VICTORIA, TX 77901
(512) 576-1231

112 N. 18J
HAYS COUNTY COURTHOUSE ANNEX
SAN MARCOS, TX 78666
(512) 396-1400

111 N. 10TH
WEST COLUMBIA, TX 77486
(409) 345-1414

The Honorable Andrew Barrett
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

Dear Commissioner Barrett:

Enclosed is a letter from Mark Rutherford, Vice President/Project Manager of CVTV, Inc. in the 14th Congressional District of Texas which I represent, expressing his concerns regarding an exclusive contract between USSB and Time Warner/Viacom. Mr. Rutherford has the understanding that such an exclusive contract, which prevents distributors such as his organization from gaining access to programming to serve non-cabled rural areas, is illegal under the 1992 Cable Act.

I would appreciate your assistance in answering Mr. Rutherford's questions and concerns regarding the exclusive contract between USSB and Time Warner/Viacom. I also request a copy of any information you provide to Mr. Rutherford regarding this matter. If I may be of assistance, please do not hesitate to contact me.

Sincerely,


Greg Laughlin
Member of Congress

Enclosure

July 26, 1994



The Honorable Greg Laughlin
United States House of Representatives
236 Cannon Building
Washington, D.C. 20515

Dear Representative Laughlin,

I am writing this letter in support of the Comments of the National Rural Telecommunications Cooperative (NRTC) in the matter of Implementation of Section 19 of the Cable Television Consumer Protection and Competition Act of 1992, Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, CS Docket No. 94-48.

CVTV, Inc. is a subsidiary of Colorado Valley Telephone Cooperative, a member of NRTC, and a distributor of the DIRECTV direct broadcast satellite (DBS) television service. My company is directly involved in bringing satellite television to rural consumers.

However, despite passage of the 1992 Cable Act, my company's ability to compete in our local marketplace is being hampered by our lack of access to programming owned by Time Warner and Viacom.

This programming, which includes some of the most popular cable networks like HBO, Showtime, Cinemax, The Movie Channel, MTV, Nickelodeon and others, is available only to my principal competitor, the United States Satellite Broadcasting Co. (USSB), as a result of an "exclusive" contract signed between USSB and Time Warner/Viacom.

In contrast, none of the programming distribution contracts signed by DIRECTV are exclusive in nature, and USSB is free to obtain distribution rights for any of the channels available on DIRECTV.

Mr. Laughlin, my organization agrees with the NRTC that these exclusive programming contracts run counter to the intent of the 1992 Cable Act. I believe that the Act prohibits any arrangement that prevents any distributor from gaining access to programming to serve non-cabled rural areas. Under the present circumstance, if one of my DIRECTV subscribers also wishes to receive the Time Warner/Viacom product, that subscriber must purchase a second subscription to the USSB service. This hinders effective competition, and as a consequence keeps the price of the Time Warner/Viacom channels unnecessarily high. It also increases consumer confusion at the retail level.

Not having access to the Time Warner/Viacom services has also adversely affected my ability to compete against other sources for television in my area. For example, we have

had people ask us what type of cable programming we are providing without these channels. Consumers do not understand. "Everyone who subscribes to cable always has access to HBO, Showtime, Cinemax, The Movie Channel, MTV, Nickelodeon, and others," one consumer states. "If you do not offer this programming, I do not want it," another irate consumer states after he finds out that he cannot have the same channels that he had when he lived in the city and had regular cable television. Many times it's hard to explain to the subscribers the reasoning behind their programming accessibility. They see that almost every other cable company has the opportunity to obtain these channels, why can't they?

We believe very strongly that the 1992 Cable Act flatly prohibits any exclusive arrangements that prevent any distributor from gaining access to cable programming to serve rural non-cable areas. That is why we supported the Tauzin Amendment, embodied in Section 19 of the Act.

We ask the FCC to remedy these problems so that the effective competition requirements of Section 19 become a reality in rural America. I strongly urge you to banish the type of exclusionary arrangements represented by the USSB/Time Warner/Viacom deal.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mark Rutherford".

Mark Rutherford
Vice President/Project Manager
CVTV, Inc.

MR/dmm

cc: The Honorable Kay Bailey Hutchinson
The Honorable Phill Gramm
William F. Caton, Secretary
The Honorable James H. Quello
The Honorable Andrew C. Barrett
The Honorable Susan Ness
The Honorable Rachelle B. Chong